

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MICHAEL STOUT

No. C-09-3556 CW

Plaintiff,

ORDER RE SERVICE

v.

CITY OF ANTIOCH, et al.,

Defendants.

The above-captioned complaint was filed on August 4, 2009, and a Case Management Conference was set for November 17, 2009. Pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, service of the summons and complaint must be made upon a defendant within 120 days after the filing of the complaint. To date, the summons and complaint have not been served. Accordingly,

IT IS HEREBY ORDERED that Plaintiff shall serve the summons, complaint, and the enclosed Amended Order Setting Case Management Conference on the Defendants by **December 4, 2009** (see attached instructions for service). Failure to timely serve the summons, complaint and Amended Order Setting Case Management Conference will result in dismissal of this case for failure to prosecute. The Case Management Conference is continued to **December 22, 2009, at 2:00 p.m.**

Dated:



CLAUDIA WILKEN
United States District Judge

INSTRUCTIONS FOR SERVICE

The requirements for properly serving a summons and complaint are set forth in Federal Rule of Civil Procedure 4. First, the summons itself must be signed by the clerk and bear the seal of the court, among other requirements. F.R.C.P. 4(a). Once a proper summons has been issued by the court, the plaintiff must serve that summons on the defendants or ask defendants to waive service. F.R.C.P. 4(c), (d). The plaintiff must file proof of service or a waiver signed by defendant with the court within 120 days of filing the complaint. F.R.C.P. 4(l), (m). Plaintiffs may ask defendants to waive service of process. To do so, a plaintiff must mail or deliver a copy of the complaint to the defendant along with a specified notice requesting that the defendant waive service. F.R.C.P. 4(d)(2). The plaintiff must provide 30 days for the defendant to respond and must include a self-addressed stamped envelope by which the defendant can comply with the request. F.R.C.P. 4(d)(2). If the defendant waives service, he or she has 60 days to respond to the plaintiff's complaint; if the defendant refuses to waive service, he or she must pay the plaintiff's costs of service unless he or she can show good cause for failing to waive service. F.R.C.P. 4(d)(2), (3). If the defendant agrees to waive service, the plaintiff must file a copy of the waiver with the court in lieu of filing a proof of service. F.R.C.P. 4(d)(4). Waiver forms are available at the clerk of the court's office. If the defendant does not waive service, the plaintiff must properly serve the defendant with the summons and complaint, following the requirements of federal or State law. F.R.C.P. 4(e). Under federal law, plaintiffs must arrange for someone who is not a party to the case and who is at least 18 years of age to hand deliver a copy of the documents to the defendant, leave copies of the documents at the individual's home with some person of suitable age and discretion who lives there, or deliver a copy of the documents to an agent authorized by appointment or by law to receive service of process for the defendant. F.R.C.P. 4(e)(2).

(1/98)

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

Stout,

Case Number: CV09-03556 CW

Plaintiff,

CERTIFICATE OF SERVICE

v.

City of Antioch, et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 12, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Michael Stout
3828 Kildeer Dr.
Antioch, CA 94509

Dated: November 12, 2009

Richard W. Wieking, Clerk
By: Sheilah Cahill, Deputy Clerk

United States District Court
For the Northern District of California